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ENVIRONMENT AND SUSTAINABLE DEVELOPMENT: SUSTAINABLE USE AND CONSERVATION OF THE MARINE LIVING RESOURCES OF THE HIGH SEAS

Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas

Report of the Secretary-General

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I. INTRODUCTION

1. The General Assembly, at its forty-ninth session, in its decision 49/436 of 19 December 1994, took note with appreciation of the report of the Secretary-General (A/49/469) and, while acknowledging the substantial progress achieved since 1992 in support of the objectives of resolution 46/215 of 20 December 1991, 1/ expressed serious concern over reports of continuing conduct and activities inconsistent with the terms of that resolution. It therefore urged the international community to take greater enforcement responsibility to ensure full compliance with resolution 46/215, and requested the Secretary-General to take into account decision 49/436 in preparing his report on further developments relating to the implementation of that resolution.

2. In accordance with decision 49/436, the Secretary-General sent a note verbale to all members of the international community, drawing their attention to resolution 46/215. Letters were also addressed to intergovernmental and non-governmental organizations and well-established scientific institutions with expertise in the area of living marine resources.

3. The Secretary-General has received a number of responses and submissions from States, intergovernmental and non-governmental organizations and scientific organizations. He wishes to express his appreciation for all the contributions.

4. The present report, which takes into account such contributions, is submitted to the General Assembly in response to the request contained in decision 49/436.

II. ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS

5. The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) replied to the Secretary-General on 15 May 1995, recalling that the matter of large-scale drift-net fishing had been discussed at the annual meeting of CCAMLR in 1990, resulting in the adoption of resolution 7/IX, 2/ which declared that, in accordance with General Assembly resolution 44/225, there would be no expansion of large-scale pelagic drift-net fishing into the high seas of the convention area. Since the adoption of resolution 7/IX, no cases of activities or conduct inconsistent with the terms of that resolution had been reported to the Commission within the CCAMLR convention area.

6. In its response to the Secretary-General dated 18 May 1995, the South Pacific Forum Fisheries Agency (FFA) indicated that since its last submission to the Secretary-General on the issue in July 1994, no incident of fishing with long drift-nets had been drawn to the attention of the Agency.

7. The Council of Europe informed the Secretary-General on 23 May 1995 that in view of the fact that decision 49/436 dealt with the sustainable use and conservation of marine living resources, it would be particularly taken into account in the activities aimed at the implementation of the Bern Convention of 19 September 1979 on the Conservation of European Wildlife and Natural Habitats.

8. In its report to the Secretary-General dated 22 June 1995, the Food and Agriculture Organization of the United Nations (FAO) submitted the following information:

> "16. On the basis of information available to FAO the incidence of large-scale pelagic drift-net fishing, in contravention of United Nations General Assembly resolution 46/215 and subsequent resolutions, has declined further in the 1994/95 period. This situation might be attributed principally to: (i) the United Nations moratorium being successfully implemented in accordance with the relevant United Nations General Assembly resolutions, and (ii) enhanced flag State control on the part of States and entities which previously sanctioned the use of this type of gear.
>
> "17. The major area for large-scale pelagic drift-net fishing is the Mediterranean Sea, with vessels predominantly being of Italian flag or origin. These vessels are operating in contravention of both the United Nations international moratorium on large-scale pelagic drift-net fishing and European Community (EC) law. Given the fragility and biological importance of the Mediterranean Sea, the continued use of this gear in this area is viewed by many as a matter of considerable international concern."

9. The United Nations Economic Commission for Latin America and the Caribbean (ECLAC), in its submission to the Secretary-General of 23 June 1995, indicated that it had no specific information to submit for the reporting period with respect to information requested in General Assembly decision 49/436 concerning the implementation of resolution 46/215.

III. REVIEW BY REGION

A. General

1. Information provided by States

10. In its reply of 24 May 1995, Colombia informed the Secretary-General that Colombia was of the view that large-scale pelagic drift-net fishing had a great impact on the living marine resources of the world's oceans and seas, and therefore it supported the relevant provisions of resolution 46/215. In addition, no Colombian fishing vessel was engaged in high seas drift-net fishing in the world's oceans and seas.

11. In its reply to the Secretary-General dated 19 June 1995, the United States of America made the following submission:

> "...
>
> "As a principal co-sponsor of General Assembly resolution 46/215, as well as resolution 44/225 (1989) and 45/197 (1990), and supporter of decisions 47/443 (1992), 48/445 (1993) and 49/436 (1994), the United States takes a particular interest in the effective and full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high

seas in the light of the adverse impacts such fishing has upon the world's living marine resources.

"The United States firmly believes that the best available scientific evidence demonstrates the wastefulness and potential ecosystem-scale negative impacts of large-scale pelagic drift-net fishing on the high seas. The United States believes it was appropriate that the General Assembly, in recognition of the unacceptable impacts of large-scale pelagic drift-net fishing on the high seas, and by its resolution 46/215, called upon all members of the international community to ensure that a global moratorium on all large-scale pelagic drift-net fishing on the high seas be fully implemented by 31 December 1992.

"The United States attaches great importance to compliance with resolution 46/215, has taken measures individually and collectively to prevent large-scale pelagic drift-net fishing on the high seas and has called upon all members of the international community to implement and comply with the resolution. The United States has urged all members of the international community, intergovernmental organizations, non-governmental organizations and scientific institutions with expertise in relation to living marine resources to report to the Secretary-General any activity or conduct inconsistent with the terms of resolution 46/215.

"Since 1990, it has been unlawful for any United States national or fishing vessel to engage in large-scale drift-net fishing in any area under the fisheries jurisdiction of the United States or beyond the exclusive economic zone of any nation.

"The Driftnet Act Amendments of 1990, and more recently the High Seas Driftnet Fisheries Enforcement Act, enacted in November 1992, made it the stated policy of the United States to, among other things, implement resolution 46/215 and secure a permanent ban on the use of destructive fishing practices, in particular large-scale drift-nets, by persons or vessels fishing beyond the exclusive economic zone of any nation. Additionally, the Act provides for the denial of port privileges for any large-scale drift-net fishing vessel and sanctions for any nation whose nationals or vessels conduct large-scale drift-net fishing beyond the exclusive economic zone of any nation, including a prohibition on the importation into the United States of fish and fish products and sport fishing equipment.

"On 8 March 1993, the United States announced plans to promote observance of the global moratorium on large-scale pelagic drift-net fishing on the high seas, including steps the United States intends to take in the event United States enforcement authorities have reasonable grounds to believe that any foreign flag vessel encountered on the high seas is conducting, or has conducted, large-scale pelagic drift-net fishing operations inconsistent with resolution 46/215. United States enforcement officials will follow established procedures for determining flag-State identity or registration and will take law-enforcement actions in conjunction with the flag State and consistent with the 1982 United Nations Convention on the Law of the Sea. Under customary international law and

United States law, a vessel considered stateless and found to be conducting large-scale pelagic drift-net fishing operations on the high seas would be subject to penalty in the United States.

"Since submission of its report to the Secretary-General in July 1994, the United States has taken a number of steps to implement the General Assembly's resolutions and decisions on large-scale pelagic drift-net fishing on the high seas.

"To monitor compliance with the drift-net moratorium in 1994, the United States Coast Guard and the United States National Marine Fisheries Service continued to carry out enforcement and surveillance activities in the North Pacific in areas of former large-scale drift-net fishing. United States Coast Guard cutters logged 146 vessel days at sea and Coast Guard aircraft flew 223 hours in the 1994 drift-net monitoring programme. No large-scale high seas drift-net activity was sighted by United States enforcement patrols in 1994.

"All United States Coast Guard operations were coordinated with enforcement officials of Japan, Canada and the Russian Federation. In addition, direct lines of communication have been established between the Coast Guard and the Russian Federation Border Guard to facilitate sharing of information.

"...

"In two European fisheries, questions have been raised regarding the use of large-scale drift-nets on the high seas. Environmental groups charged last year that fishermen of several European Union (EU) member nations continued to conduct large-scale high seas drift-net fishing.

"The countries concerned have been conducting diligent enforcement in the fishery, and the United States expects that these efforts, in addition to the framework established by international law, EU regulations, and EU member State regulations, are sufficient to ensure full compliance with resolution 46/215.

"Under a Memorandum of Understanding between the United States Departments of Transportation, Commerce and Defense, signed 11 October 1993, the United States is utilizing the surveillance capabilities of the Department of Defense for locating and identifying vessels violating resolution 46/215. Formal procedures for communicating vessel locations to the Department of Commerce and the United States Coast Guard, as well as concerned Governments, have been established.

"The United States continues to attach extreme importance to compliance with resolution 46/215 and encourages all members of the international community to take measures to prohibit their nationals and vessels from undertaking any activity contrary to the terms of resolution 46/215, and to impose appropriate penalties against any that may undertake such activities."

12. In its response of 29 June 1995 to the Secretary-General, New Zealand expressed the view that the Secretary-General's annual report to the General Assembly was a significant tool of accountability which it strongly supported. It also remained opposed to large-scale pelagic drift-net fishing and attached great importance to the full implementation of the global moratorium in accordance with resolution 46/215. New Zealand was aware of reports in some areas and wished to express its deep concern about such reports and to urge all countries to direct their fishing industries to comply fully with the global moratorium. It therefore welcomed the decision by the General Assembly at its forty-ninth session to urge au horities of members of the international community to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with international law, against acts contrary to the terms of the resolution.

2. Information provided by international organizations

13. In its above-mentioned report to the Secretary-General (see para. 8), FAO made the following submission:

> "4. The Government of Japan, the Government of the Republic of Korea and the fisheries administration in Taiwan, Province of China, have all introduced policies and measures aimed at implementing fully General Assembly resolution 46/215 and subsequent resolutions. There have been no reports that vessels of these flags have been engaged in large-scale pelagic drift-net fishing in 1994/95.
>
> "5. In 1994 it had been reported that French and Italian vessels with large-scale pelagic drift-net gear in excess of 2.5 kilometres continued to operate in the North-East Atlantic Ocean and in the Mediterranean Sea, respectively. The Italian fleet exceeds 600 vessels and targets swordfish stocks on a seasonal basis. Both fleets have reportedly been operating in contravention of General Assembly resolution 46/215 and subsequent resolutions and EC Council regulation 345/92. However, France has agreed to enforce EC Council regulation 345/92, which limits the length of drift-nets to 2.5 kilometres per vessel, thereby abiding by EC law and the United Nations international moratorium.
>
> "6. Conflict among EC fishermen over the use of large-scale pelagic drift-nets in 1994 was reported in the Bay of Biscay. Spanish fishermen, who are forced by national law to use pole-and-line gear when targeting albacore tuna in the Bay of Biscay, maintained that Irish and French vessels were using drift-nets in excess of 2.5 kilometres. In some instances Spanish fishermen were reported to have boarded Irish vessels and cut their nets, while a French vessel was escorted to a port in Galicia.
>
> "7. With the exception of the Mediterranean Sea and the Bay of Biscay in the North-East Atlantic Ocean, there have been no reports of fishing with large-scale drift-nets in the 1994/95 period."

14. In its submission of 29 June 1995 to the Secretary-General, the Secretariat of the Asia Pacific Fishery Commission (APFIC) reported that:

(a) Malaysia did not have any large-scale pelagic drift-net fishing that would fall under the ambit of General Assembly resolution 46/215. However, Malaysia had imposed a ban on the use of any drift-net or gill with a mesh size of less than 25.4 centimetres (10 inches) in waters under its own jurisdiction;

(b) Pakistan indicated that there was no large-scale drift-net fishing in Pakistan. The small-scale artisanal fishermen did use the pelagic gill net in coastal waters off Pakistan, which did not pose any threat to non-target species such as dolphins and whales;

(c) The Philippines had indicated that its fishing authorities had recommended to the Philippine Government to accede to Protocol II of the Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific since the Philippines' gill nets were not forbidden by the Convention in view of the fact that they ranged from 300 to 800 metres and operated only in coastal waters for the harvesting of pelagic and demersal species using boats of less than 3 gross tons. Likewise, the Philippine Government ought to prohibit transshipment of large-scale drift-net catches within areas under national jurisdiction;

(d) Hong Kong was not aware of any boats based in Hong Kong using large-scale pelagic drift-net fishing. In addition, the method was not used in Hong Kong territorial waters by foreign vessels.

3. Information provided by non-governmental organizations

15. In its submission of 25 April 1995 to the Secretary-General, the Cousteau Society submitted the following statement:

> "The Cousteau Society completely supports and reaffirms the importance of General Assembly decision 49/436, and completely supports and reaffirms the importance of a global moratorium on all large-scale pelagic drift-net fishing, as referred to in paragraphs 3 (c) and 4 of resolution 46/215.
>
> "Captain Cousteau has repeatedly spoken out about the destructive nature of drift-net fishing on fish stocks, and indeed worked actively to support the moratorium. Obviously, destructive fishing practices continue, but this does not mean that the higher goal of a full-scale moratorium should not be continuously sought, especially in view of the interests and rights of future generations."

16. In its reply of 30 June 1995, the Hellenic Marine Environment Protection Association (HELMEPA) informed the Secretary-General that although the issue of large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas was of concern to HELMEPA, the Association's membership did not include fishing vessels or fishermen. The Association was therefore not in a position to collect and provide information on the problems encountered in the implementation of resolution 46/215, nor had it had the opportunity to support its objectives in the appropriate forums.

17. In its response to the Secretary-General dated 30 June 1995, Greenpeace International stated that despite the European Council Regulation (EEC) No. 345/92 amending Council Regulation (EEC) No. 3094/86, which banned pelagic drift-nets longer than 2.5 kilometres, the European Union still had probably the largest large-scale, high seas drift-net fleet in the world and continued to act in contravention of General Assembly resolution 46/215 and subsequent General Assembly decisions with respect to drift-net fishing.

18. In its reply to the Secretary-General dated 13 July 1995, the Federation of Japan Tuna Fisheries Cooperative Associations made the following submission:

"...

"We are convinced that the United Nations should reconsider its course of action with regard to [General Assembly resolution 46/215] because:

(1) The resolution has lacked as its basis concrete scientific evidences to prove that drift-net fishing destroys the marine environment and damages the ecosystem;

(2) The decision-making process has bypassed the due considerations of scientific evidence; and therefore

(3) The process has failed to bring about a real consensus among the concerned parties.

"We understand that at regional levels through observer programmes and other kinds of scientific surveys, strenuous efforts had been made to collect data to study the impacts of drift-net fisheries on the related resources and to work out measures to remedy its ecological problems. However, despite such efforts, the United Nations General Assembly had neglected them altogether and without thorough scientific debates and without leaving the matter to the competent agency for further study, political and quick solutions were sought and the banning resolution was adopted.

"The resolution therefore inevitably has inherent problems and adoption of such resolution has left a stain upon the reputation of the United Nations.

"From the viewpoint of sustainable use of food resources, we would like to firmly request that the United Nations should take up this matter again totally from scratch and assign to the FAO, which is a specialized agency established under the United Nations to cope with issues of food security, duties of close examinations of accumulated data at this stage."

B. Atlantic Ocean

1. Information provided by States

19. In its reply of 9 June 1995, Guyana informed the Secretary-General that no illegal drift-net fishing had been reported in Guyanese waters and that no high seas drift-net fishing had been permitted by its authorities.

20. In its submission of 24 July 1995, the Netherlands reported to the Secretary-General that, in conformity with European Community regulation 345/92, Netherlands law prohibited the use and possession of drift-nets with a length of over 2.5 kilometres. Observance of this rule was enforced by the Fisheries Inspection Service and no infringements had ever been reported.

21. In its response to the Secretary-General dated 21 July 1995, Venezuela reported that under its legislation the use of drift-nets was prohibited for all vessels, either national or foreign, of length equal or exceeding 14 metres in zones under national jurisdiction and on the high seas. Any commercialization of fishery products harvested with the above-mentioned gear was also prohibited, even if the catches were made on the high seas by foreign fishing vessels. In addition, violations would be prosecuted in conformity with the Fisheries Law and its regulations, without prejudice to the revocation of fishing permits and the application of other applicable administrative sanctions.

2. Information provided by international organizations

22. In its submission of 30 May 1995, the International Commission for the Conservation of Atlantic Tunas (ICCAT) informed the Secretary-General that a resolution on large-scale pelagic drift-net fishing had been adopted by ICCAT at its ninth special meeting (Madrid, November-December 1994). In that resolution, ICCAT had called upon its member States, inter alia, to take greater enforcement responsibility to ensure that their nationals and fishing vessels complied with General Assembly resolution 46/215 and to impose the appropriate sanctions against their nationals and fishing vessels that would act contrary to the terms of that resolution. In addition, in its above-mentioned report to the Secretary-General (see para. 8) FAO indicated that ICCAT had advised it that, although the Commission was still in the process of collecting data for the 1994/95 period, there had been no reports of catches made by large-scale pelagic drift-nets in the Commission area.

23. In its reply of 20 June 1995 to the Secretary-General, the North Atlantic Salmon Conservation Organization (NASCO) indicated that it was not aware of any activities within the convention area which would be inconsistent with General Assembly decision 49/436.

24. In its response of 26 June 1995, the North Atlantic Fisheries Organization (NAFO) informed the Secretary-General that NAFO contracting parties had unanimously concurred with United Nations resolutions and decisions on the subject and that there had not been any large-scale pelagic drift-net fishing activity within the convention area during these years.

25. According to the FAO report to the Secretary-General, the Fishery Committee for the Eastern Central Atlantic (CECAF) had indicated that there were no reports of catches of large-scale pelagic drift-net fishing in the CECAF area during 1994/95.

26. In its submission to the Secretary-General dated 4 July 1995, the International Council for the Exploration of the Sea (ICES) reported that member States had informed it that they were unaware of any activities by their nationals in the ICES area which might be inconsistent with General Assembly resolution 46/215.

27. In its reply of 4 July 1995 to the Secretary-General, the North-East Atlantic Fisheries Commission (NEAFC) indicated that General Assembly decision 49/436 was of direct relevance to NEAFC in so far as it related to fishing on the high seas, although article 1.2 of the NEAFC Convention stated that the Convention did not apply to highly migratory species within the mandate of other international agreements such as ICCAT. None the less, NEAFC was not aware of any drift-net fishing being conducted in NEAFC's international waters. In addition, Norway, as a contracting party, had informed NEAFC that Norwegian vessels did not carry out large-scale pelagic drift-net fishing on the high seas. A very limited drift-net fishery for mackerel took place each spring in Norwegian coastal waters without by-catch problems. The short seasonal drift-net mackerel fishery was not considered to be of a scale or to involve wasteful fishing methods that would be inconsistent with the General Assembly resolutions and decisions on the issue.

3. Information provided by non-governmental organizations

28. In its above-mentioned report to the Secretary-General (see para. 17), Greenpeace International made the following submission:

> "In 1994, just before the so-called 'tuna war' started in the North-East Atlantic, illegal French, Irish and United Kingdom drift-netters were detected both by Spanish fishermen and Spanish fisheries control boats. Conflicts arose between Spanish fishermen (which use traditional gears in the albacore fishery) and drift-net fishermen from other countries; a French drift-net vessel was seized by several Spanish live-bait and pole-and-line boats.
>
> "It is common knowledge that nets of 2.5 kilometres in length are not economically viable, neither in the Mediterranean swordfish fishery, nor in the North-East Atlantic albacore fishery. Therefore, in Greenpeace's view, illegal large-scale drift-net fishing is bound to continue in the North-East Atlantic if high seas drift-net fishing is not altogether banned and effective enforcement action taken. Furthermore, because of the incompatibility between drift-nets and other more selective gears in the same fishing areas, conflicts among fleets are expected again this year.
>
> "EU authorities are well aware of the non-implementation of the EU Regulation and the United Nations moratorium. The European Commission

stated in its communication to the European Union Council of Ministers on 8 April 1994 that:

> 'The allowing of nets up to 2.5 kilometres long has to be seriously questioned. First of all, it is a cardinal factor in fraud. Secondly, it is an avenue through which the use of drift-nets can be expanded.'

"This year, in reaction to the violent conflicts provoked by large-scale illegal drift-netting in the North-East Atlantic last year, the EU member States involved and the European Commission are deploying no less than seven patrol vessels in the area. The proportion of patrol vessels, concentrated in the area where the smallest portion of the EU drift-net fleet operates (less than 90 drift-net vessels), shows the tremendous difficulty involved in enforcing the 2.5 kilometre length limit imposed by the EU Regulation.

"It remains to be seen whether this unprecedented and costly level of control will result in the effective enforcement of the EU Regulation throughout the season. Greenpeace has repeatedly warned that attempting to regulate drift-nets through means of a length limit was impossible for a fleet of over 700 vessels operating in both the North-East Atlantic and the Mediterranean Sea.

"..."

C. Baltic Sea

29. In its submission to the Secretary-General dated 11 September 1995, Finland indicated that General Assembly resolution 46/215 on large-scale pelagic drift-net fishing had not caused any measures to be taken in Finland since drift-nets used for salmon fishing in the Baltic Sea were smaller than those used in the oceans and no other fish were caught in this type of salmon fishing.

D. Indian Ocean and South China Sea

1. Information provided by States

30. In its report to the Secretary-General dated 21 June 1995, Sri Lanka made the following submission:

"There is no large-scale pelagic drift-net fishing in the high seas by Sri Lankan fishermen. Permits are granted by Sri Lanka to fishing boats of foreign origin to land fish in Sri Lankan ports caught in the high seas using long lines only.

"Sri Lanka is committed to conservation and sustainable development of fisheries. Accordingly, a new Fisheries and Aquatic Resources Bill has been formulated for which the approval of the Cabinet of Ministers has been obtained. It will be submitted to Parliament in due course. There are

provisions in this Bill for licensing of all major fishing activities and a separate section on conservation of fisheries. Once the Bill becomes law, strict enforcement of the legislation would be undertaken. Even the provisions of the present Fisheries Ordinance on conservation are enforced.

"..."

31. In its reply of 10 August 1995 to the Secretary-General, Thailand made the following submission:

"At the outset, it should be mentioned that the drift-nets being used by the Thai fisheries are of a different type from those referred to in decision 49/436. However, the Department of Fisheries has conducted a study to evaluate the impact of drift-nets of 2.5 and 9.5 kilometres and found that no endangered species (sea turtles, dugongs and dolphins) could be found to have been caught. The drift-nets used by the Thai fishers thus have caused no impact on the living marine resources or marine ecosystem as required by the decision."

2. Information provided by international organizations

32. According to the above-mentioned report of FAO (see para. 8) to the Secretary-General, the Indo-Pacific Tuna Development and Management Programme (IPTP) had indicated that in the Indian Ocean there had been no reports of fishing with large-scale pelagic drift-nets since Taiwan, Province of China, had taken measures to prevent the use of this type of gear by its flag vessels.

E. The Mediterranean

1. Information provided by States

33. In its response to the Secretary-General dated 13 June 1995, Cyprus stated that no drift-net fishing from Cyprus flag vessels took place in the Mediterranean, either inside or outside the territorial sea limits of Cyprus. In addition, it stressed that the relevant legislation allowed the Department of Fisheries to deny fishing permits to drift-net fishing operations.

34. In its report dated 25 June 1995, Morocco informed the Secretary-General that drift-nets had been authorized only for artisanal coastal fishery without modern technical capability operating in areas under Moroccan jurisdiction. This type of fishing was limited to the Moroccan Mediterranean coastal area and did not bear any similarity with large-scale pelagic drift-nets, the use of which had been consistently denounced by Morocco. Furthermore, Morocco had established technical regulations restricting the use and scope of this small-scale drift-net fishing. Foreign fishing fleets authorized to operate in areas under national jurisdiction were forbidden to practice drift-net fishing.

2. Information provided by international organizations

35. In its report to the Secretary-General, FAO indicated that the General Fisheries Council for the Mediterranean (GFCM) had advised that there had been no complaints from members concerning fishing with large-scale pelagic drift-nets in the 1994/95 period. Some GFCM members had made a substantial effort to reduce this type of fishing in the region.

3. Information provided by non-governmental organizations

36. In its above-mentioned report to the Secretary-General, Greenpeace International indicated that:

> "Large scale high-seas drift-net fishing is continuing in 1995. The Italian swordfish drift-net fleet, consisting (as it has for the past several years) of more than 600 vessels, continues to operate in contravention of European Union regulations, using an average net length of 12.5 kilometres per vessel. Illegal Italian drift-netters currently moor in Italian harbours, carrying on board large-scale illegal nets with total impunity.
>
> "On 4 May 1995, a sperm-whale calf appeared on Posilippo beach (Naples, Italy) with the tail cut. This is a common practice among fishermen to release cetaceans from drift-nets. On 6 May 1995, three sperm whales were discovered entangled in a piece of drift-net 30 nautical miles from South Sardinia.
>
> "On 5 May 1995, the Spanish Army arrested an illegal Italian drift-netter while operating in Spanish territorial waters. An unknown number of other illegal boats were detected in the vicinity, fishing in international waters. According to Spanish fishermen, since May 1995, sights of illegal Italian drift-netters have been frequent in the international waters of the western Mediterranean, both in the Balearic Sea and between the Balearic Islands and the Spanish mainland.
>
> "In a recent survey, in June 1995, the Greenpeace vessel MV Greenpeace has detected dozens of large-scale drift-nets in the eastern Mediterranean. Encounters with three vessels in particular showed that they were using nets that measured at least between 7 and 10 kilometres in length. The drift-net vessel Diomede I had set its net, estimated at 7 kilometres in length, in a cargo shipping traffic lane. The net had already been cut by a propeller of a passing ship when the MV Greenpeace arrived.
>
> "On 27 June, in the western Mediterranean, an illegal Italian drift-netter was found selling swordfish in Minorca harbour, Spain. Spanish authorities measured the net, which was 4.5 kilometres long, and confiscated 2 kilometres of net from the vessel. Before the authorities could take further legal action, the vessel escaped from the harbour. This is the second time the Spanish authorities have found an illegal Italian drift-netter in Spanish waters this year.

"Greek fishermen have regularly contacted Greenpeace to report the presence of Italian drift-net vessels fishing in the Ionian Sea. As in recent years, it appears that the fishing area of the illegal Italian fleet continues to cover almost all international waters of the Mediterranean, although a small reduction of the fleet has been noticed in the waters off Spain (probably as a result of environmentalists' protests as well as repeated arrests by the Spanish Navy).

"But this does not necessarily indicate that the fleet is decreasing. Greenpeace has been informed about contacts between interested parties to export Italian drift-nets to Tunisia. Rumours also mention Malta, Albania and Croatia. Italian drift-net vessels may also be reflagging to some of those countries.

"Morocco is developing a pelagic drift-net fishery and Moroccan fishermen have been buying drift-nets from Spanish suppliers. This new fishery is being developed in the absence of studies on its potential environmental impact. There is no assessment of the swordfish population, the main target species. Even though swordfish is a major commercial species, no appropriate management measures have been put in place. Data on fleet size, net lengths, fishing areas and incidental catches are not publicly available, if they exist at all.

"..."

F. Pacific Ocean

1. Information provided by States

37. In a note dated 18 May 1995 addressed to the Secretary-General, Fiji made the following submission:

"Fiji has provision and has undertaken the following measures at the national level which are consistent with the above-mentioned resolution. Fiji has signed and ratified the Wellington Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific Region. The Wellington Convention entered into force on 17 May 1991.

"In its national laws, there is a legislative provision which provides for administrative and operational flexibility to address the problem of the continued use of drift-nets. In particular, your attention is drawn to subsection 1 (d) of section 22 of the Marine Space Acts (chapter 158A of the Laws of Fiji), which states that: 'The Minister may prescribe the classes of licences, whether by reference to the size of the vessel, size of catch, method of fishing, species of catch or otherwise.' Under section 15 of the aforementioned legislation, the Minister responsible for fisheries may suspend or cancel a licence to fish granted to a foreign fishing vessel where there has been a determination that such vessel has contravened any regulations which have prescribed, inter alia, methods of fishing.

"Having regard to the foregoing, Fiji believes that it has an appropriate legal regime which, when fully utilized, will contribute to the effective implementation of the desire of the international community to halt the practice of drift-net fishing.

"..."

38. In its report to the Secretary-General dated 18 May 1995, the Federated States of Micronesia indicated that section III (4)(c) of Title 24 (Marine resources) of the Code of the Federated States of Micronesia provided that a permit application might be denied in the case "where the [Micronesian Maritime] Authority determines that the permit would authorize fishing with or by means of the use of drift-net or gill net or other substantially similar method of catching fish". In addition, the Federated States of Micronesia is party to both the Tarawa Declaration, outlawing drift-netting in the South Pacific Forum region, and the Wellington Convention.

39. In its above-mentioned report to the Secretary-General (see para. 11), the United States of America gave the following information:

"In December 1994, the United States and the People's Republic of China extended for two years a Memorandum of Understanding designed to ensure effective cooperation and implementation of resolution 46/215. Under the terms of the agreement, originally signed on 3 December 1993, enforcement officials of either country may board and inspect vessels flying the United States or People's Republic of China flag in the North Pacific Ocean found using or equipped to use large-scale high seas pelagic drift-nets inconsistent with the provisions of resolution 46/215.

"The agreement also provides for enforcement officials of either country to ride on board high seas drift-net fishery enforcement vessels of the other country. The United States Coast Guard will carry People's Republic of China ship riders on two high seas fishery enforcement patrols this year in areas of former large-scale high seas drift-net fishing activity. During one of these patrols, the United States Coast Guard and the Russian Federal Border Service will conduct a coordinated high seas drift-net fishing surveillance operation.

"The United States Coast Guard's high seas enforcement plan for 1995 will include over 110 days of cutter patrols and an estimated 215 hours of airborne surveillance from United States Coast Guard air patrols based in Alaska and Hawaii. These flights will be coordinated with similar enforcement efforts by Canada to provide maximum patrol-area coverage."

40. In its above-mentioned submission to the Secretary-General (see para. 12), New Zealand indicated that there had been no drift-net activity within the areas under its jurisdiction over the past 12 months. It reiterated also its call for all countries eligible to do so to support fully the Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific and its two Protocols.

41. In its reply of 1 June 1995, the Cook Islands informed the Secretary-General that its Government had taken measures to prevent large-scale pelagic drift-net fishing operations on the high seas by ratifying the Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific (Wellington Convention) on 24 January 1990. Since the entry into force of the Wellington Convention, there had been no reports of activity in the Cook Islands exclusive economic zone or adjacent high seas involving the use of large-scale drift-nets. In addition, the Cook Islands enacted in 1989 the Marine Resources Act which, under section 15, banned any fishing vessel from being used or assisting any drift-net fishing in the Cook Islands or the fishing waters thereof. The Act also made it an offence for any Cook Islands national to engage or assist in any drift-net fishing activities. Where any fishing vessel was used in contravention of the Act, the owner, charterer and master each committed an offence and would be liable upon conviction to a fine not exceeding $NZ 250,000. Fishing activity in the exclusive economic zone of the Cook Islands was monitored by the Cook Islands Ministry of Marine Resources. Regular inspections were carried out by patrol boats from Australia, New Zealand and the Cook Islands and air patrols were undertaken by naval aircraft from Australia, New Zealand and France. Dockside inspections of foreign fishing vessels were carried out at ports of unloading in the region such as Pago Pago, American Samoa, and any irregularities were reported to the Ministry of Marine Resources. Beginning in 1996, the monitoring of fishing vessels operating in the region would be significantly enhanced through the introduction of a regional vessel monitoring system, which would provide an accurate picture of fishing vessel activity on a near real-time basis.

42. In its submission of 1 August 1995 to the Secretary-General, China provided the following information:

> "...
>
> "Following the adoption of General Assembly resolution 44/225 on 22 December 1989, the Ministry of Agriculture of the People's Republic of China officially issued the text of that resolution on 10 November 1990 and called upon local government authorities and fisheries enterprises to follow its provisions strictly. The Ministry further decided that it would no longer approve applications for the development of large-scale pelagic drift-net fishing operations on the high seas. At the same time, the Ministry required the six vessels that had already obtained permission to use drift-nets for fishing on the high seas to suspend their use of large-scale pelagic drift-nets, in accordance with General Assembly resolution 44/225.
>
> "On 13 February 1993, the Ministry of Agriculture of China issued a regulation prohibiting the use of large-scale drift-nets on the high seas and notified local Chinese government authorities and fisheries enterprises of that regulation. The regulation reiterated the Chinese Government's ban on the use of large-scale drift-nets in fishing operations on the high seas by all vessels of Chinese registry. Vessels violating that regulation would be subject to the following penalties:

(1) Determination of the administrative responsibility to be borne by the head of the unit operating the vessel;

(2) Confiscation of the catch, the fishing gear used and the income derived from the violation, and the imposition of a fine; and

(3) Suspension or revocation of the credentials of the offending vessel's crew.

"...

"In May of 1993, two vessels registered in China for long-line fishing (the Yinyu No. 601 and Yinyu No. 602) were discovered to have large-scale drift-nets on board without permission and to be engaging in drift-net fishing operations in the waters of the North Pacific in violation of General Assembly resolution 46/215 and the relevant Chinese Government regulations. During the same month the Dayuanyu No. 206 illegally flew the Chinese national flag in the waters of the North Pacific, despite having had its registry revoked by China, and carried large-scale drift-net equipment on board. The Ministry of Agriculture of China has imposed penalties on all three vessels in accordance with the provisions of Chinese domestic laws and regulations.

"...

"On 3 December 1993, for the purpose of effective cooperation and implementation of General Assembly resolution 46/215, representatives of the Government of the People's Republic of China and the Government of the United States of America signed the Memorandum of Understanding Between the Government of the People's Republic of China and the Government of the United States of America on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991. That Memorandum entered into force on the date of signature. No fishing vessels were found to be in violation of relevant United Nations resolutions during the period that the Memorandum was in force. In December 1994, in order to further strengthen this international cooperation, the Governments of China and the United States of America decided to extend the period of validity of the Memorandum to 31 December 1996. Officials of China and the United States have already begun conducting cooperative joint boardings and inspections of vessels in the waters of the North Pacific."

2. Information provided by international organizations

43. In its above-mentioned report to the Secretary-General (para. 6), the South Pacific Forum Fisheries Agency (FFA) drew attention to the fact that the Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific had entered into force on 17 May 1991. It had been signed by 14 FFA member countries, the most recent being Fiji in August 1993. Seven other countries and the New Zealand Protectorate of Tokelau had ratified the

Convention. The United States had signed and ratified Protocol I to the Convention, while Chile had signed and ratified Protocol II.

44. In its reply to the Secretary-General dated 26 May 1995, the North Pacific Anadromous Fish Commission (NPAFC) submitted the following information:

> "The Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean was signed at Moscow on 11 February 1992 by Canada, Japan, the Russian Federation and the United States and came into force on 16 February 1993. The Convention prohibits directed fishing for anadromous fish (Pacific salmon and steelhead trout) on the high seas of the North Pacific Ocean and also includes measures to minimize the amount of anadromous fish taken in other fisheries. The parties to the Convention are allowed to take action individually or collectively to prevent unauthorized fishing activities by others, and to prevent trafficking in illegally harvested anadromous fish. Each party has the authority to board, inspect and detail fishing vessels found operating in violation of the Convention. Thus, though the Convention was not elaborated to implement General Assembly resolution 46/215 or to prohibit large-scale pelagic drift-net fishing itself as described in the resolution, this Convention has eventually contributed to the implementation of the resolution, by prohibiting directed fishing for anadromous fish on the high seas area of the North Pacific Ocean, where fishing had been mainly conducted by using drift-nets.
>
> "The Convention established the North Pacific Anadromous Fish Commission in order to promote the conservation of anadromous stocks in the North Pacific Ocean and its adjacent seas and serve as a forum for the cooperation and coordination of enforcement activities, and scientific research.
>
> "The Commission reviewed the enforcement activities by each party at its 1993 and 1994 annual meetings.
>
> "...
>
> "In 1994 there was one drift-net vessel encountered that had gill nets visible on the deck. The vessel could not be identified and efforts to apprehend the vessel were unsuccessful.
>
> "All parties to the Convention will implement their enforcement plans during the current year.
>
> "At the second annual meeting - 1994, the view was expressed that success in achieving the goals of the Convention related to the cooperative enforcement activities of the parties.
>
> "..."

45. In its report to the Secretary-General, FAO indicated that the Inter-American Tropical Tuna Commission had advised that there was no evidence

that large-scale pelagic drift-net fishing had occurred in the Eastern Pacific Ocean in 1994/95.

Notes

1/ In resolution 46/215 the General Assembly called, inter alia, for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas.

2/ See A/46/615, para. 15.